

JEROME SCHREIBSTEIN (SBN 154051)  
JAMES T. CONLEY (SBN 224174)  
THE LOUDERBACK LAW FIRM  
One Embarcadero Center, Suite 2300  
San Francisco, California 94111  
Telephone: (415) 398-7860  
Facsimile: (415) 398-7863

Attorneys for Defendant  
BAYER HEALTHCARE LLC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CRYSTAL A. LEWIS,

Plaintiff,

v.

BAYER HEALTHCARE LLC,

Defendants.

CASE NO. C-03-4403 JSW

**DEFENDANT BAYER  
HEALTHCARE'S APPLICATION TO  
EXCEED PAGE LIMITS; AFFIDAVIT  
OF COUNSEL; ~~PROPOSED~~ ORDER**

**DATE:** October 28, 2005  
**TIME:** 9:00 a.m.  
**COURTROOM:** 2, 17<sup>TH</sup> Floor

**Honorable Jeffrey S. White**

**APPLICATION**

Defendant Bayer HealthCare LLC ("Bayer") hereby applies, pursuant to United States District Court Local Rule 7-11, for an Order authorizing its filing of its Reply Memorandum of Points and Authorities in Support of its Motion for Summary Judgment or, in the Alternative, Partial Summary Judgment in excess of the 15 page limit set by United States District Court, Civil Local Rule 7.4(b). This Application is based on the grounds that: (1) Due to plaintiff filing

her Opposition brief 11 days late (albeit per Court Order), Bayer was given only six days to respond to the same, rather than seven and lacked the additional editing time that might have led to compliance with the 15 page limit, (2) the issues addressed in Bayer's Reply Memorandum of Points and Authorities are all responsive to matters raised in plaintiff's Opposition brief and thus there will be no prejudice to plaintiff, and (3) no prejudice will befall plaintiff by Bayer's submission of a brief slightly in excess (only two pages) of the Court's denominated page limits.

DATED: October 25, 20005

THE LOUDERBACK LAW FIRM

  
JEROME SCHREIBSTEIN

Attorney for Defendant BAYER HEALTHCARE LLC

**AFFIDAVIT OF COUNSEL**

1. I am an attorney at law licensed to practice before the United States District Court for the Northern District of California. I am Senior Counsel to the Louderback Law Firm, counsel of record for Bayer. I make this declaration based upon my own personal knowledge and if called as a witness I could and would competently testify thereto.

2. I have been the lead attorney for Bayer in this matter since its inception. Defendant Bayer has raised no new issues in its Reply Memorandum of Points and Authorities; rather defendant has merely responded to matters raised in plaintiff's Opposition papers. Although defendant has made every reasonable effort to do so succinctly, the time constraints (six days to respond as opposed to seven), coupled with the extensive responsive matters raised by plaintiff by opposition, has required that defendant exceed the 15 page limit by two pages.

3. I have substantially prepared Bayer's Reply Memorandum of Points and Authorities which is 17 pages long. I do not believe the brief can be reduced to 15 pages without sacrificing significant substantive comment or resorting to electronic manipulation that will render the brief difficult to read. Accordingly, Bayer seeks to file the brief two pages in excess of the limit set by United States District Court, Civil Local Rule 7.4(b).

1           4.       On October 24, 2005, I informed plaintiff of Bayer's intent to file the attached  
2 Administrative Motion and requested that plaintiff stipulate to the same. As of this date I have not  
3 yet received a response from plaintiff.

4           I declare under penalty of perjury under the laws of the State of California that the foregoing  
5 is true and correct and that this declaration was executed on October 25, 2005 in San Francisco,  
6 California.

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**ORDER**

GOOD CAUSE APPEARING, pursuant to United States District Court Local Rule 7.11, Bayer is authorized to file its Reply Memorandum of Points and Authorities in Support of its Motion for Summary Judgment or, in the Alternative, Partial Summary Judgment in excess of the 15 page limit set by United States District Court, Civil Local Rule 7.4(b), so long as such brief shall not exceed 17 pages.

Dated: October 26, 2005

  
HONORABLE JEFFREY S. WHITE  
United States District Court Judge

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